

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CAROLINA RIVERA,

Plaintiff,

- against -

MULCAHYS PUB & CONCERT HALL

Defendant.

Docket No. 2:19-cv-00444

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Carolina Rivera (“Rivera” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Mulcahys Pub & Concert Hall (“Mulcahys” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of reggae singer Matisyahu, owned and registered by Rivera, a New York based professional photographer. Accordingly, Rivera seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Rivera is a professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 2639 Schurz Avenue, #3, Bronx, New York 10465.

6. Upon information and belief, Mulcahys is a company with a place of business 3232 Railroad Avenue, Wantagh, New York 11793. At all times material, hereto, Mulcahys has owned and operated a website at the URL: www.muls.com and has operated their Twitter Page at the URL: <https://twitter.com/mulcahyspub> (the “Websites”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Rivera photographed reggae singer Matisyahu (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Rivera is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-115-284.

B. Defendant’s Infringing Activities

10. Mulcahys ran the Photograph on the Websites to promote tickets to see singer Matisyahu at their concert hall. See Exhibit B.

11. Mulcahy use the Photograph as advertisements to sell tickets for \$25 and \$30 to the show at their concert hall.

12. Mulcahys did not license the Photograph from Plaintiff for its Websites and advertisements, nor did Mulcahys have Plaintiff's permission or consent to publish the Photograph on its Websites and advertisements.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

14. Mulcahys infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites and advertisements. Mulcahys is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Mulcahys be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
January 22, 2019

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